

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

Before the Court is John L. Skinner's motion to vacate, set aside or correct sentence brought pursuant to 28 U.S.C. § 2255. The motion is filed pro se. Skinner was convicted, after a jury trial, of one count of conspiracy to possess with intent to distribute a controlled substance and one count of possession of a controlled substance with intent to distribute. He was sentenced to 120 months imprisonment on April 7, 2005. He is currently serving his sentence at the United States Penitentiary at Leavenworth, Kansas. An appeal was taken and rejected in an opinion dated January 6, 2006. United States v. Skinner, 433 F.3d 613 (8th Cir. 2006). The current § 2255 motion was filed on October 2, 2006. Skinner alleges, among other things, ineffective assistance of counsel, pre-indictment delay, and that coerced testimony was admitted at trial.

The Court has reviewed the motion as required by Rule 4 of the Rules Governing Section 2255 Proceedings and finds (1) the motion is not plainly defective on its face as it alleges cognizable constitutional violations and is in the proper form, (2) Skinner is in custody pursuant to a federal judgment, (3) the motion has been brought within the one year statute of limitation, and (4) as this is the first § 2255 motion Skinner has filed in this case it is obviously not a successive or second motion which would require authorization from the Eighth Circuit.

Without passing on the merits of the motion, the Court does Order that the United States file an answer with the Court within sixty (60) days from the date of this Order. The answer shall comply with the requirements of Rule 5 of the Rules Governing Section 2255 Proceedings. Skinner will have 30 days from the date the United States' answer is filed to file a reply.

IT IS SO ORDERED.

Dated this 5th day of October, 2006.

/s/ *Patrick A. Conmy*

Patrick A. Conmy, Senior District Judge
United States District Court